

**REMARKS**

The Office Action of **August 15, 2003** has been received and its contents carefully noted. Applicants respectfully submit that this response is timely filed and fully responsive to the Office Action.

Claims 1-37 were pending in the present application prior to the above amendment. By the above amendment, claims 1-37 are cancelled, and claims 38-69 are added. No new matter is introduced (see, e.g., original claims 1-37, and FIGs. 1-31 and the description in Specification thereof). Accordingly, claims 38-69 are pending in this application, of which claims 38-40, 54-56, 61-64, and 66-69 are independent.

**Objections to the Claims**

In response to the objection to the claims, claims 1-37 have been cancelled, and claims 38-69 have been added to correct the noted and discovered informalities. No new matter is introduced. Accordingly, the objection to the claims is respectfully overcome.

**35 U.S.C. §112, Second Paragraph, Rejection**

In response to the rejection of claim 5 under 35 U.S.C. §112, second paragraph, based on a finding of indefiniteness, claims 1-37 have been cancelled, and claims 38-69 have been added to correct the noted and discovered informalities. No new matter is introduced. Accordingly, Applicants respectfully contend that all of the pending claims are in compliance with 35 U.S.C. §112 and no further rejection on such basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to contact the undersigned, who will be happy to work with the Examiner in a joint effort to derive mutually satisfactory claim language.

**35 U.S.C. §102 and §103 Rejections**

In response to the rejection of claims 1-3, 5, 6, and 26 under 35 U.S.C. §102(b), as being anticipated by *Gammie et al.* (USPN 5,270,809), claims 4, 7, 14-16, 18, 20-22, and 27-36 under 35 U.S.C. §102(e), as being anticipated by *Richards et al.* (USPN 6,237,146), claims 8, 17, 19, and 23 under 35 U.S.C. §103(a), as being unpatentable over *Richards et al.*, claims 9, 13, and 24 under 35 U.S.C. §103(a), as being unpatentable over *Richards et al.* in view of *Corrigan et al.* (USPN 5,966,636), claims 10-12 under 35 U.S.C. §103(a), as being

unpatentable over *Richards et al.* in view of *Lowell* (USPN 6,012,086), and claims 25, and 37 under 35 U.S.C. §103(a), as being unpatentable over *Lowell*, claims 1-37 have been cancelled, and new claims 38-69 have been added. No new matter is introduced. Applicants respectfully contend that independent claims 38-40, 54-56, 61-64, and 66-69 and claims dependent therefrom are clearly patentably distinct over the applied references, taken alone or in combination, for at least the reasons advanced below.

**The Applied References Fail to Disclose, Teach or Suggest the Claimed Invention**

Applicants respectfully contend that the applied references, taken alone or in combination, fail to disclose, teach or suggest each and every element defined by the pending independent claims 38-40, 54-56, 61-64, and 66-69, and claims dependent therefrom. For example, the independent claims include novel features directed to receiving retrieval or probability variation data contained in broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information and so as to provide control of transmission of the response information based on a transmission capability of a communication line.

By contrast, *Gammie et al.* discloses receiving a call-in list in the form of commands **downloaded to a subscriber authorization computer 211** (col. 12, line 61 to col. 13, line 4). However, such a general disclosure in *Gammie et al.* of downloading commands to a subscriber authorization computer fails to teach, disclose or suggest receiving retrieval or probability variation data contained in broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information and so as to provide control of transmission of the response information based on a transmission capability of a communication line.

*Richards et al.*, *Corrigan et al.* and *Lowell*, alone or in combination, fail to cure the noted deficiencies in *Gammie et al.* Specifically, *Richards et al.* discloses employing a back-off array for controlling when a terminal sends messages to a cable head end, wherein a **DHTV 14 can uplink and download digital messages and other information** (col. 3, lines 5-19). However, such a general disclosure in *Richards et al.* of uplinking and downloading digital messages and other information fails to teach, disclose or suggest the noted features.

*Corrigan et al.* and *Lowell* were not relied on in the present Office Action with

respect to the noted features, and properly so, but nonetheless fail to teach, disclose or suggest receiving retrieval or probability variation data contained in broadcast data for re-transmitting response information in case of unsuccessful transmission of the response information and so as to provide control of transmission of the response information based on a transmission capability of a communication line.

Thus, the applied references, taken alone or in combination, fail to teach or suggest each and every element defined by the pending independent claims 38-40, 54-56, 61-64, and 66-69.

#### **The Dependent Claims are Allowable over the Applied References**

Dependent claim 41-53, 57-60, and 65 are allowable over the applied references, taken alone or in combination, on their own merits and for at least the reasons discussed above with respect to independent 38-40, 54-56, 61-64, and 66-69.

#### **The Non-Applied References**

The references that have been cited, but not applied by the Examiner, have been taken into consideration during formulation of this response. However, since these references were not considered by the Examiner to be of sufficient relevance to apply against any of the claims, no detailed comments thereon is believed to be warranted at this time.

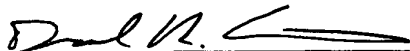
#### **Conclusion**

Therefore, it is believed that independent claims 38-40, 54-56, 61-64, and 66-69 and claims dependent therefrom are clearly patentably distinct over the applied references, taken alone or in combination. In view of the foregoing remarks, allowance of claims 38-69 is earnestly solicited.

Having responded to all rejections set forth in the outstanding Office Action, it is submitted that the claims are now in condition for allowance. An early and favorable Notice of Allowance is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, the Examiner is courteously requested to contact Applicants' undersigned representative.

Respectfully submitted,

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